

(2) prosecution through a military commission; or (3) transfer to a foreign country or foreign entity; and

Whereas, section 1021 of the 2012 NDAA seeks to preserve existing law and authorities pertaining to the detention of United States citizens, lawful resident aliens of the United States and any other person captured in the United States, but does not specify what such existing law or authorities are; and

Whereas, section 1021 of the 2012 NDAA purports to enlarge the scope of the persons the Office of the President may indefinitely detain beyond those responsible for the September 11, 2001 terrorist attacks, and those who harbored them, as purportedly authorized by the 2001 Authorization for Use of Military Force Against Terrorists, to now include “[a] person who was a part of or substantially supported Al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners, including any person who has committed a belligerent act or has directly supported such hostilities in aid of such enemy forces”; and

Whereas, section 1022 of the 2012 NDAA requires the armed forces of the United States to detain, pending disposition according to the Law of War, any person involved in, or who provided substantial support to, terrorism or belligerent acts against the United States, and who is a member of Al-Qaeda or an associated force; and

Whereas, the exemption for citizens of the United States in section 1022 of the 2012 NDAA only exempts them from a requirement to detain and reads as follows, “The requirement to detain a person in military custody under this section does not extend to citizens of the United States”; and

Whereas, unlike section 1022 of the 2012 NDAA, section 1021 makes no specific exclusion for United States citizens and lawful resident aliens for conduct occurring within the United States; and

Whereas, the specific exclusion of application to United States citizens and lawful resident aliens contained in section 1022 of the 2012 NDAA, and the absence of such an exclusion in section 1021 of the NDAA, strongly implies that the provisions of section 1021 are intended to apply to all people, including United States citizens and lawful resident aliens, whether or not they are captured in the United States; and

Whereas, the Office of the President of the United States, under the administrations of both George W. Bush and Barack Obama, has asserted that the 2001 Authorization for the Use of Military Force Against Terrorists allows the Office of the President to indefinitely detain without charge persons, including United States citizens and lawful resident aliens, who are captured in the United States; and

Whereas, United States Senator Carl Levin declared on the floor of the United States Senate that the original 2012 NDAA provided that section 1021 (then section 1031 prior to final drafting) specifically would not apply to United States citizens, but that the Office of the President of the United States had requested that such a restriction be removed from the 2012 NDAA; and

Whereas, during debate in the Senate and before the passage of the 2012 NDAA, United States Senator Mark Udall introduced an amendment intended to forbid the indefinite detention of United States citizens, which was rejected by a vote of 38–60; and

Whereas, United States Senator John McCain and United States Senator Lindsey Graham declared on the floor of the United States Senate that section 1021 of the 2012 NDAA authorized the indefinite detention of United States citizens captured within the

United States by the armed forces of the United States; and

Whereas, United States Senator Lindsey Graham declared on the floor of the United States Senate that the United States homeland is now part of “the battlefield”; and

Whereas, policing the United States by the armed forces of the United States, as purportedly authorized by the 2012 NDAA, overturns the posse comitatus doctrine and is repugnant to a free society; and

Whereas, sections 1021 and 1022 of the 2012 NDAA, as they purport to authorize the detainment of persons captured within the United States without charge or trial, military tribunals for persons captured within the United States and the transfer of persons captured within the United States to foreign jurisdictions, violate the following rights enshrined in the Constitution of the United States:

Article I, section 9, clause 2 right to seek a writ of habeas corpus.

The First Amendment right to petition the government for a redress of grievances.

The Fourth Amendment right to be free from unreasonable searches and seizures.

The Fifth Amendment right to be free from charge for an infamous or capital crime until presentment or indictment by a grand jury.

The Fifth Amendment right to be free from deprivation of life, liberty or property without due process of law.

The Sixth Amendment right in criminal prosecutions to enjoy a speedy trial by an impartial jury in the state and district where the crime was allegedly committed.

The Sixth Amendment right to be informed of the nature and cause of the accusation.

The Sixth Amendment right to confront witnesses.

The Sixth Amendment right to counsel.

The Eighth Amendment right to be free from excessive bail and fines, and cruel and unusual punishment.

The Fourteenth Amendment right to be free from deprivation of life, liberty or property without due process of law.

Whereas, the members of the Legislature of Arizona have taken an oath to uphold the Constitution of the United States and the Constitution of the State of Arizona; and

Whereas, this Legislature opposes any and all rules, laws, regulations, bill language or executive orders that amount to an overreach of the federal government and that effectively take away civil liberties; and

Whereas, it is indisputable that the threat of terrorism is real and that the full force of appropriate and constitutional law must be used to defeat this threat, yet winning the war against terror cannot come at the great expense of mitigating basic, fundamental constitutional rights; and

Whereas, undermining our own constitutional rights serves only to concede to the terrorists’ demands of changing the fabric of what made the United States of America a country of freedom, liberty and opportunity; therefore be it

Resolved by the Senate of the State of Arizona, the House of Representatives concurring:

1. That the Members of the Legislature condemn sections 1021 and 1022 of the 2012 NDAA as they purport to repeal posse comitatus and authorize the President of the United States to use the armed forces of the United States to police American citizens, to indefinitely detain persons captured within the United States without charge until the end of hostilities as purportedly authorized by the 2001 Authorization for Use of Military Force, to subject persons captured within the United States to military tribunals, and to transfer persons captured within the United States to a foreign country or foreign entity.

2. That the Members of the Legislature find that the enactment into law by the United States Congress of sections 1021 and 1022 of the National Defense Authorization Act of 2012 is inimical to the liberty, security and well-being of the people of Arizona and that those sections were adopted by Congress in violation of the limits of federal power in the United States Constitution.

3. That the Secretary of State of the State of Arizona transmit copies of this Resolution to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

POM-105. A resolution adopted by the Legislature of Rockland County, New York, urging Algonquin Gas Transmission Corporation to prepare and submit to the Federal Energy Regulatory Commission (FERC) an additional means of access to the pipeline and facilities operating in and through Kakiat Park, and urging FERC to reject any application for expansion or modification of Algonquin’s facilities absent a plan for emergency access; to the Committee on Energy and Natural Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KERRY (for himself, Mr. RUBIO, and Mr. CARDIN):

S. 3341. A bill to require a quadrennial diplomacy and development review, and for other purposes; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MENENDEZ (for himself and Ms. SNOWE):

S. Res. 505. A resolution congratulating His Holiness Dorje Chang Buddha III and The Honorable Benjamin A. Gilman on being awarded the 2010 World Peace Prize; to the Committee on the Judiciary.

By Mr. REID (for himself and Mr. MCCONNELL):

S. Res. 506. A resolution to authorize legal representation in *Bilbrey v. Tyler*; considered and agreed to.

By Mr. RUBIO (for himself and Mr. NELSON of Florida):

S. Res. 507. A resolution congratulating the Miami Heat for winning the National Basketball Association Championship; considered and agreed to.

By Mr. BLUNT (for himself, Mrs. MCCASKILL, and Mr. NELSON of Florida):

S. Res. 508. A resolution recognizing the teams and players of Negro League Baseball for their achievements, dedication, sacrifices, and contributions to baseball and the Nation; considered and agreed to.

By Mr. BLUNT (for himself and Mrs. MCCASKILL):

S. Res. 509. A resolution recognizing Major League Baseball as an important part of the cultural history of American society, celebrating the 2012 Major League Baseball All-Star Game, and honoring Kansas City, Missouri, as the host city of the 83rd All-Star Game; considered and agreed to.